

REMARKS

The Office Action mailed April 9, 2003 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1 and 4-8 were pending in the application, with claims 7 and 8 withdrawn. Claim 1 has been amended, claim 9 is newly added and no claims have been canceled. Therefore, claims 1 and 4-9 are pending in the application with claims 1, 4-6, and 9 submitted for reconsideration by the examiner.

This amendment changes and adds claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, are presented, with an appropriate defined status identifier.

Support for new claim 9 can be found in examples 1 and 2 in Table 1 of the specification.

35 U.S.C. § 102(b) Rejections

In the Office Action, claims 1 and 4-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,472,781 to Kim et al. (hereafter "Kim"). Further, claims 1 and 4-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 4,491,657 to Saito et al. (hereafter "Saito"). In response Applicants have amended claim 1 to include a "birefringence > 0.08 ". Support for this feature can be found in examples 1 and 2 in Table 1 of the specification. The birefringence of the fiber disclosed by Kim has a birefringence of 0.069. Therefore, Kim does not anticipate amended claim 1 or any of the claims depending from amended claim 1.

Regarding Saito, Applicants note that the only specifically disclosed value of the monofilament linear density in Saito is 5.77 dtex. This value is outside of the claimed range of "monofilament linear density ≤ 5.0 dtex." Therefore, Saito does not anticipate claim 1 or any of the claims which depend from claim 1.

Additionally, Applicants note that the Examiner's argument that Applicants did not prove that the Saito cannot possess a monofilament linear density ≤ 5.0 dtex is misplaced. It is the Examiner's burden to demonstrate anticipation. Further, a judicial requirement for the doctrine of inherency is absolute certainty. *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F3d 1048, 32 USPQ2d 1017 (CAFC 1994). Because the monofilament

linear density can vary with processing conditions, it is not absolutely certain and therefore, not inherent. Thus, Saito does not anticipate amended claim 1 or any of the claims depending from amended claim 1.

Conclusion

In view of the foregoing amendments and remarks, applicants believe that the application is in condition for allowance and an indication of the same is respectfully requested. If there are any questions regarding the application, or if an examiner's amendment would facilitate the allowance of one or more of the claims, the examiner is invited to contact the undersigned attorney at the local telephone number below.

Respectfully submitted,

Date July 9, 2003

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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.
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